

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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**UNITED STATES OF AMERICA**

**v.**

**CLARENCE L. EARLE**

**a/k/a ERIC ALLEN**

**a/k/a LEMONT TIPPET**

**a/k/a THEODORE WILSON**

**a/k/a ROBERT PREVAL**

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**Case No. 04-cr-10065 MLW**

**GOVERNMENT’S SUPPLEMENTAL PROPOSED JURY INSTRUCTIONS**

Pursuant to Fed. R. Crim. P. 30, the United States of America, by and through its attorneys, United States Attorney Michael J. Sullivan and Assistant United States Attorney Seth P. Berman, hereby submits this supplemental request for jury instructions in the above-captioned matter. This request is intended to supplement, and is therefore in addition to, the Government’s Proposed Jury Instructions filed on March 15, 2004. The government reserves the right to supplement, modify, or withdraw these instructions in light of the defendant’s requested instructions.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Seth P. Berman  
SETH P. BERMAN  
Assistant U.S. Attorney

Dated: March 28, 2005

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Paul Markham, Esq.  
58 Orient Street  
Melrose, MA 02176

This 28th day of March, 2005.

/s/ Seth P. Berman  
SETH P. BERMAN  
Assistant U.S. Attorney

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**JURY INSTRUCTION NO. 7**  
**Title 18, United States Code, §1001 - THE STATUTE**

Title 18, United States Code, Section 1001, reads, in pertinent part:

Whoever, in any matter within the jurisdiction of the executive, legislative or judicial branch of the Government of the United States, knowingly and willfully makes any materially false, fictitious or fraudulent statement or representation ... [shall be guilty of a violation of this statute].

**JURY INSTRUCTION NO. 8**  
**ELEMENTS OF 18 U.S.C. § 1001**

For you to find the defendant guilty of this crime, you must find that the government has proved each of the following elements of the offense beyond a reasonable doubt:

First: That the Defendant knowingly made a material false statement;

Second: That the Defendant made the statement voluntarily and intentionally; and

Third: That the Defendant made the statement to an agent of the United States Immigration and Customs Enforcement who was acting in his official capacity.

*See First Circuit, Pattern Jury Instructions (Criminal), West, 1998 §4.08.*

**JURY INSTRUCTION NO. 9**  
**DEFINITION - KNOWINGLY**

A false statement is made “knowingly” if the Defendant knew that it was false or demonstrated a reckless disregard for the truth with a conscious purpose to avoid learning the truth.

*See* First Circuit, Pattern Jury Instructions (Criminal), West, 1998 §4.08.

**JURY INSTRUCTION NO. 10**  
**DEFINITION - “MATERIAL”**

A statement is “material” if it has a natural tendency to influence or to be capable of influencing the decision of the decisionmaker to which it was addressed.

For a statement to be material it need not have actually influenced the actions of the Government agent or agency, and the Government agent or agents need not have been actually deceived.

*See* United States v. Gaudin, 515 U.S. 506 (1995), United States v. Arcadipane, 41 F.3d 1, 9 (1<sup>st</sup> Cir. 1994), and United States v. Corsino, 812 F.2d 26, 30 (1<sup>st</sup> Cir. 1986). *See also* First Circuit, Pattern Jury Instructions (Criminal), West, 1998 §4.08.

**JURY INSTRUCTION NO. 11**  
**DEFINITION – “FALSE”**

A statement is “false” if it was untrue when made.

*See* First Circuit, Pattern Jury Instructions (Criminal), West, 1998 §4.08.